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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,216	01/02/2004	Philip S. Siegel	067439.0157	1168
5073	7590	02/19/2009		
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER SHAAWAT, MUSSA A	
			ART UNIT 3627	PAPER NUMBER
			NOTIFICATION DATE 02/19/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com  
glenda.orrantia@bakerbotts.com

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/751,216	<b>Applicant(s)</b> SIEGEL, PHILIP S.
<b>Examiner</b> MUSSA A. SHAAWAT	<b>Art Unit</b> 3627

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-5, 7, 8, 10-16, 29-32.  
 Claim(s) withdrawn from consideration: 17-28.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☒ Other: See Continuation Sheet.

/F. Ryan Zeender/  
 Supervisory Patent Examiner, Art Unit 3627

Continuation of 13. Other: Applicants argument have been considered but are not persuasive. In particular applicant argues that Arganbright in view of Cybul does not disclose, teach, or suggest "receiving an electronic selection, from the customer, via the web access tool, the electronic selection identifying a particular item of merchandise included in the list of at least one item of merchandise having been purchased by the customer in the prior purchase transaction, the electronic selection comprising a click on the particular item of merchandise in the list displayed to the customer and identifying the particular item of merchandise for returns processing."

In response, examiner respectfully disagrees. Cybul teaches accessing a computerized database to obtain the shopping or transaction history associated with the consumer (see at least Abstract, and co1.4 lines 40-50); displaying the previous transaction or shopping history via a web browser interface where the previous shopping history is associated with the consumer (see at least co1.3 line 65-co1.4 lines 15); in response to displaying the transaction history associated with the consumer, receiving an electronic selection of a particular of at least an item by the consumer using the browser interface, the electronic selection comprising a click on the particular item of merchandise and identifying the particular item of merchandise (see at least co1.4 lines 25-35, consumer selecting previous shopping history). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Cybul into the disclosure of Arganbright in order to provide the consumer with the option to return items via internet or online. Therefore Arganbright in view of Cybul still meets the scope of the limitation as currently claimed.

Examine note: The official notice statement recited in the previous office action dated 11/29/2007, is taken to be admitted prior art because applicant failed to traverse the examiner's assertion of official notice. See, MPEP 2144.02. Furthermore the Official Notice Traversal is no longer seasonable, therefore the Official Notice is considered to be admitted prior art..